

Application No.: 10/828,923
Filing Date.: April 21, 2004

REMARKS

In response to the Office Action dated October 1, 2007, Applicants respectfully request the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments. As a result of the amendments listed above, Claims 1-7, 9 and 10 remain pending. Claim 1 has been amended.

In the changes made by the current amendment, ~~deletions are shown by strikethrough~~, and additions are underlined or enclosed in [[double brackets]].

Claims 1-7, 9 and 10 Are In Condition for Allowance

Claims 1-7, 9 and 10 presently stand rejected under 35 U.S.C. § 102(b) or § 103(a) as being unpatentable over U.S. Patent No. 5,846,216 to Gonzales, alone, or in combination with one or more of U.S. Patent Nos. 5,032,113 to Burns, 5,213,576 to Abiuso, and 5,370,610 to Reynolds. Applicants respectfully submit that these claims, as amended herein, are in condition for allowance. Reconsideration and withdrawal of the present rejections are respectfully requested.

Independent Claim 1 stands rejected as being anticipated by Gonzales. The Examiner has taken the position that Gonzales discloses a catheter with an elongated tube having a plurality of exit holes and an elongated porous member within the tube.

Applicants respectfully disagree. Gonzales discloses a porous fiber core 82 within a preferably porous shell 90 – not an elongated tube, as claimed. However, in order to expedite allowance of the present application, Applicants have amended Claim 1 to further distinguish the Gonzales reference. In particular, Claim 1 has been amended to recite a catheter including, among other features, an elongated, *non-porous* tube in which a proximal end of the tube is configured to be connectable to a supply of fluid located *external of a body of a patient* in which the catheter is placed. The tube (shell 90) of Gonzales is porous, is not connectable to a supply of fluid, and is entirely internal of the patient in which the catheter is placed.

Claims 2-7, 9 and 10 depend from allowable Claim 1. These claims are allowable, not only because they depend from an allowable claim, but upon their own merit as well.

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For at least the reasons discussed above, Applicants submit that Claims 1-7, 9 and 10 are allowable over the applied reference(s), as well as the other prior art of record. Reconsideration and allowance of Claims 1-7, 9 and 10 are respectfully requested.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

Co-Pending Applications of Assignee

Applicant wishes to draw the Examiner's attention to the following co-pending applications of the present application's assignee.

Serial Number	Title	Filed
11/364,767	CATHETER FOR UNIFORM DELIVERY OF MEDICATION	February 28, 2006
10/420,133	CATHETER FOR UNIFORM DELIVERY OF MEDICATION	April 18, 2003

In particular, Applicant's draw the Examiner's attention to the Amendment filed January 25, 2008 in the '767 application, as well as the Office Action that is addressed by the Amendment.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims and specification. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

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The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney, Curtiss C. Dosier at (949) 721-7613 (direct line), to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: March 3, 2008

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